

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #4	CCRB Case #: 202003012	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/02/2020 4:51 PM	Location of Incident: § 87(2)(b)	Precinct: 109	18 Mo. SOL 11/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/03/2020 4:25 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/03/2020 4:25 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Martin	24921	941068	109 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eric Dieumegard	02743	957543	109 PCT
2. DT3 Michael Johnston	5203	946500	NARCBQN
3. SGT Joel Edwards	03692	936544	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Martin	Force: Police Officer Kevin Martin used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Kevin Martin	Force: Police Officer Kevin Martin hit § 87(2)(b) against a vehicle.	§ 87(2)(b)
C.POM Kevin Martin	Abuse: Police Officer Kevin Martin forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

### Case Summary

On May 3, 2020, § 87(2)(b) filed this complaint on the CCRB website.

On May 2, 2020, at approximately 4:51 PM, Police Officer Kevin Martin and Police Officer Eric Dieumegard, both of the 109<sup>th</sup> Precinct, and Sergeant Joel Edwards and Detective Michael Johnston, both of Narcotics Borough Queens North, responded to a 911 call which involved a violent Emotionally Disturbed Person (EDP) who attacked his mother at § 87(2)(b) in Queens. PO Martin allegedly pushed § 87(2)(b) and caused him to fall and hit his head against a vehicle (**Allegations A and B – Force – § 87(2)(g)**). PO Martin forcibly removed § 87(2)(b) to the hospital (**Allegation C – Abuse of Authority – § 87(2)(g)**).

No arrests were made, or summons issued as a result of this incident.

The CCRB received two Body Worn Camera (BWC) videos (BR 02, BR 03).

### Findings and Recommendations

**Allegation (A) Force: Police Officer Kevin Martin used physical force against § 87(2)(b)**

**Allegation (B) Force: Police Officer Kevin Martin hit § 87(2)(b) against a vehicle.**

§ 87(2)(b) stated that on May 2, 2020, at approximately 4:51 PM, officers arrived to his house at § 87(2)(b) in Queens and knocked on the front door (BR 01). § 87(2)(b) and his mother, § 87(2)(b) walked to the front door and PO Martin requested that § 87(2)(b) open the door. § 87(2)(b) opened the door and PO Martin immediately grabbed § 87(2)(b) and pulled him outside. PO Martin pushed § 87(2)(b) to the ground. § 87(2)(b) hit his head against the car in the driveway as he fell to the ground. After he fell down, PO Martin pressed his head against the ground and handcuffed him. PO Martin brought § 87(2)(b) into an ambulance and he was removed to the hospital. § 87(2)(b) stated that he was not under the influence of any alcohol or drugs during this incident.

The BWC footage captures the entirety of the incident (BR 02, BR 03). The entire physical interaction between the officers and § 87(2)(b) is seen between 1:20 and 5:05 of PO Martin's BWC video (BR 02). At 1:20, PO Martin is standing at the front door as it opens. PO Martin grabs and handcuffs § 87(2)(b) behind his back, while the other officers restrain him. At 1:40, the officers repeatedly tell § 87(2)(b) to sit down and he does not comply. PO Martin sits § 87(2)(b) on the ground near the vehicle in the driveway. At 3:25, officers lift § 87(2)(b) off the ground and onto a stretcher and restrain him to it. At 4:30, the officers and EMTs bring § 87(2)(b) into the ambulance.

§ 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Kevin Martin forcibly removed § 87(2)(b) to the hospital.**

It is undisputed that PO Martin forcibly removed § 87(2)(b) to the hospital.

911 audio shows that § 87(2)(b)'s doctor, § 87(2)(b), called 911 (BR 04) and requested for medical services to respond to § 87(2)(b)'s house at § 87(2)(b), in Queens. In the 911 call, § 87(2)(b) stated that § 87(2)(b) was acting psychotic and aggressive, has bipolar disorder, and was attacking his mother. The 911 operator connected § 87(2)(b) to EMS for him to confirm what was going on. The 911 operator told § 87(2)(b) that police officers and EMS were going to respond to the scene.

From 0:55 to 2:20 of the radio communications (BR 05), the 911 operator tells the responding officers that there is a § 87(2)(b)-year-old violent "EDP" male at § 87(2)(b), who is bipolar and attacking his mother. The 911 operator states that the § 87(2)(b)-year-old male has EDP history, and that EMS is approximately four minutes away from the scene.

PO Martin's memo book entry (BR 06) and the generated event (BR 07) confirm that the information from Dr. Chu's 911 call was provided to the responding officers and that the event was

marked as a violent EDP ambulance case.

From 2:00 to 3:10 of PO Dieumegard's BWC (BR 03), PO Dieumegard walks into § 87(2)(b)'s house and speaks to § 87(2)(b) who tells him that § 87(2)(b) took drugs and has not slept in three days. At 6:40, § 87(2)(b) gives PO Dieumegard two pill bottles of drugs that § 87(2)(b) had taken.

As per Patrol Guide Procedure 221-13 (BR 08) an Emotionally Disturbed Person (EDP) is a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in a serious injury to himself or others. It requires that members of service take into protective custody and remove to the hospital any individual that a member of service reasonably believes is an Emotionally Disturbed Person.

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 09).
- Police Officer Kevin Martin has been a member of service for fourteen years and has been a subject in thirty-seven complaints and one hundred and eighteen allegations, of which eighteen were substantiated. § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b)
- As of May 27, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 11).

Squad No.: 4

Investigator:	<u>Edward Tsigel</u>	<u>Investigator Edward Tsigel</u>	<u>9/02/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>9/02/2020</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date